No. 92-267

Supreme Court, U.S.
FILED
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In The

Supreme Court of the United States

October Term, 1992

UJB FINANCIAL CORP., et al.,

Petitioners,

v.

IRWIN SHAPIRO, ROBERT BASSMAN, JEROME KATZ, NORMAN SALTSITZ, JEAN LEE, and CHAPPAQUA FAMILY TRUST,

Respondents.

Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Third Circuit

RESPONDENTS' RESPONSE TO MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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August 26, 1992

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Respondents Irwin Shapiro, Robert Bassman, Jerome Katz, Norman Saltsitz, and Jean Lee (collectively, "Respondents") respond to the motion of Dean Witter Reynolds Inc., Morgan Stanley & Co. Inc., PaineWebber Inc., Wertheim Schroder & Co. Inc., and the Securities Industry Association (collectively, "Movants") to file a brief *amicus curiae* in support of the Petitioners. The motion disregards the rules of this Court, and should be denied.

This Court's rules governing the filing of briefs *amicus curiae* at the petition stage explicitly warn potential *amici* against filing motions for leave to file a brief where consent has been withheld, and against filing proposed briefs with redundant arguments. Rule 37.1 of this Court's rules states:

> An *amicus curiae* brief which brings relevant matter to the attention of the Court that has *not already been brought to its attention* by the parties is of considerable help to the Court. An *amicus* brief which does not serve this purpose simply burdens the staff and facilities of the Court and *its filing is not favored.*

Sup. Ct. Rules 37.1 (emphasis added). Rule 37.2 goes on to state that "a motion for leave to file a brief *amicus curiae* when consent has been refused is not favored." Even the most generous reading of Rule 37, in light of the arguments that Movants seek to make, requires denial of their motion.

Movants previously sought Respondents' consent for the filing of a brief *amicus curiae*. Respondents withheld their consent based upon their belief that any brief *amicus curiae* would not aid in this Court's consideration of the petition for a writ of *certiorari*. Movants' proposed brief has confirmed Respondents' belief. The proposed brief simply reiterates arguments that Petitioners already have

made, and does not bring to the Court any matter, relevant or otherwise, that has not otherwise been brought to its attention. The proposed brief serves no purpose beyond adding to the burden of the Court's staff and facilities. Given the plain language of Rule 37, the motion and proposed brief should never have been filed.

Because Movants' proposed brief *amicus curiae* does not bring anything new to this Court's attention, as is required by Rule 37, and because this Court's rules specifically discourage motions for leave to file a brief *amicus curiae* where consent has been withheld, Movants' motion should be denied.

DATED: August 26, 1992

Respectfully submitted,

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